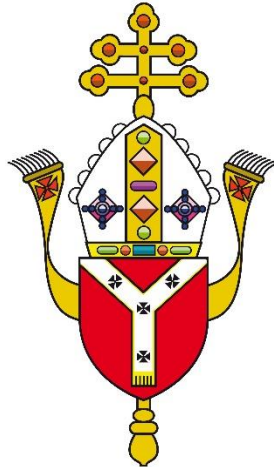


DIOCESE OF WESTMINSTER



COMPLAINTS POLICY

Policy prepared by:	Human Resources
Third Party Policy:	No
Approval of The Directors of the Trustee	22 July 2022
Review Date	June 2024

Part 1. On dealing with complaints received from members of the public against volunteers or employees of the Roman Catholic Diocese of Westminster - registered *charity No.233699*

Part 2. On dealing with complaints within the workplace

Definitions:

Grievance: An employee grievance is a concern, problem, or complaint that an employee has about their work, the workplace, or someone they work with—this includes management. Something has made them feel offended, threatened, harassed, bullied, dissatisfied, and they believe it is unfair and/or unjust on them.

Complaint: An individual (or group) submit a complaint, which is a grievance, concern or problem, about how things are done (processes, activities, services, policies etc.), or employee, volunteer or member of the clergy etc. or, separately the management of the organisation. Something has made them feel dissatisfied, and they believe it is unfair and/or unjust on them

Whistleblowing: Usually a single person, often an employee, who reveals information about activity within a private or public organisation that is deemed illegal, immoral, illicit, unsafe or fraudulent. Whistle-blowers can use a variety of internal or external channels to communicate information or allegations.

Introduction

There are two parts to this policy:

Part 1. Complaints against employees made by the public

Part 2. Complaints against employees made by employees

The Roman Catholic Diocese of Westminster is committed to ensuring equal opportunities and fair treatment in the workplace for all people.

One of the key aims of the policy is to enable us to ensure that all our employees, volunteers and clergy have working lives in which all people feel comfortable. A workplace, in which everyone is treated with respect and dignity, regardless of religion or belief, gender, ethnic or national origins, marital or family status, sexual orientation, transgender status, colour, race, nationality, creed, culture, age, disability or any other personal factor or quality.

The shared purpose of this policy is to provide a route for all our people, who believe that they have been offended, threatened, harassed, bullied, dissatisfied with an outcome, and

they believe it is unfair and/or unjust on them. to enable them to be able to raise a complaint either informally or formally.

This policy is also intended for complaints made by members of the public against volunteers and employees **only** of the Roman Catholic Diocese of Westminster. We take all complaints very seriously because they may invade upon the professional competencies and reputational standards of the diocese and lay staff.

We will treat all complaints of harassment of employee seriously and will investigate them promptly, efficiently and in confidence.

The main aim of this policy is to provide a framework for resolving complaints and for stopping any action which is the cause of complaints or behaviour that is resulting in personal offence or distress.

1.1.1.1 Part 1: Receiving the complaint from a member of the public

Any employee who receives a complaint must inform his or her line manager as soon as reasonably practicable. If the complaint is made in writing it must be acknowledged as a matter of priority. If the complaint is made orally the employee to whom it is made will make a written note of the complaint for the line manager's information. In all cases the person making the complaint must be informed that an initial response will be provided within seven days. If it is not possible to resolve the complaint within this time the person must be informed of this and the reasons for it, and an indication must be given as to when it is believed that the complaint can be resolved.

Investigation

The line manager will investigate the complaint fully. This may include interviewing employees involved in the subject matter of the complaint or obtaining written statements from them. It may also involve referring the complaint to a higher level of management. Those required to contribute to the investigation will be expected to comply fully with instructions in respect of it.

Action

Following the investigation, the line manager may take any action that he or she considers appropriate, including the commencement of the capability or disciplinary procedure in respect of one or more employees, or the reference of the complaint to a higher level of management. The complainant must be informed of the outcome and notified of his or her right to a review of the decision.

Review

If the complainant requests it within seven days of receiving the decision, the finding will be reviewed. The complainant may give reasons why he or she considers that a review is warranted, or may simply ask the diocese to think again, and may provide new information.

The diocese will respond to the request for a review within seven days, giving reasons why the decision has been reached. We may take any action we consider appropriate in the light of new information or otherwise, as the case may be, including cancelling any action or step previously taken.

A copy of the complaint, any response and record of outcome will be kept securely for a minimum of five years.

Part 2: Right to complain against an employee (e.g. harassment/bullying)

Employees have an absolute right to complain if they are treated in a manner that they believe constitutes harassment or bullying. This will include behaviour that has caused offence, humiliation, embarrassment or distress. Apart from complaints about the behaviour of colleagues, employees have the right to complain if they believe that they have been bullied or harassed by a third party, for example a customer, client or supplier. Employees who raise a genuine complaint under this policy will under no circumstances be subjected to any unfavourable treatment or victimisation as a result of making a complaint.

However, if it is established that an employee has made a deliberately false or malicious complaint against another person about harassment or bullying, disciplinary action will be taken against that employee.

Any employee who witnesses an incident that they believe to be the harassment or bullying of another member of staff should report the incident in confidence either to their line manager or to Head of Human Resources. The institution will take all such reports seriously and will treat the information in strict confidence as far as it is possible to do so.

How to make a complaint

Before raising a formal complaint, the employee is encouraged in the first instance to talk directly and informally to the person who they believe is harassing them and explain clearly what aspect of the person's behaviour is unacceptable, or is causing offence, and request that it stop immediately. It may be that the person whose conduct is causing offence is genuinely unaware that their behaviour is unwelcome or objectionable and that a direct approach can resolve the matter without the need for formal action. The employee may want to add that, if the behaviour continues, the employee intends to make a formal complaint. The employee should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and the employee wishes to make a formal complaint. Where an employee would like support to make such an approach, they should contact the Head of Human Resources.

Alternatively, the employee could ask a member of the human resources team, trade union representative or another employee to make the initial approach on the employee's behalf.

If, however, the employee feels unable to take this course of action, or if they have already approached the person to no avail, or if the harassment is of a very serious nature, they may

elect to raise a formal complaint. In the case of complaints about bullying or harassment, the normal grievance procedure is modified so that the employee can raise a complaint with either the employee's line manager or, if preferred, the Head of Human Resources. If an employee wishes to raise a complaint to a person of the same sex, we will accommodate this if at all possible.

In very serious cases (bullying, harassment or discrimination), a criminal offence may have been committed and the employee may wish to report matters to the police. The human resources department can arrange for someone to accompany the employee to make a complaint to the police.

In bringing a complaint, the employee should be prepared to state:

- the name of the person whose behaviour or actions is the cause of their complaint;
- the type of behaviour that is causing offence, together with specific examples if possible;
- dates and times when incidents occurred, and where they occurred;
- the names of any employees who witnessed any incidents, or who themselves may have been the victims of similar actions or behaviours conducted by the same person; and
- any action that the employee has already taken to try to deal with the harassment.

Responsibility on line managers to deal with complaints

Managers who receive a complaint have a duty to investigate the matter promptly, thoroughly and objectively and, where necessary, to act under the disciplinary procedure in order to ensure that the institution's dignity at work policy is complied with. Line managers should be responsive, sensitive and supportive towards any employee who raises a complaint particularly if the complaint involves, discrimination, harassment or bullying.

Managers will maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a "need to know" basis. For example, the identity of the employee complaining of harassment or bullying and the nature of the allegations must be revealed to the person they are complaining about, so that person is able to respond to the allegations. Some details may also have to be given to potential witnesses but this will be limited as far as possible, while ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

The human resources department will assist any line manager in dealing with complaints. All incidents which involve allegations of discrimination/harassment/bullying must be reported to the human resources department.

The rights of the respondent

A respondent has the right to provide a full response to the allegations made against them. This necessitates that a respondent be given the allegations in advance. A respondent may respond by denying the allegations or admitting to them in part, while bringing any mitigating circumstances to the investigator's attention.

We do not automatically agree to disclose a document if a third party, for example a colleague who has given a witness statement, does not consent to it being released. We will always consider taking steps to anonymise any document before disclosing it. This might involve:

- blanking out the witness's name and any other information from which they could be identified;
- editing the statement to conceal the identity of the witness; or
- where there are several witness statements from different employees, preparing a summary of the information contained in the statements.

Ultimately, we will take a reasoned decision about whether or not it would be reasonable in the circumstances to disclose a witness statement or other document.

This will involve balancing the witness's right to privacy against the employee's right to know what information is being alleged against them, and its source.

A complainant has the right and expectation to be treated with dignity and courtesy at all times throughout the entire process. They will be treated with as much consideration and sensitivity as the respondent.

How long should an investigation take?

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair. Some investigations might take longer depending on the case and how many people need to give information. For example, a simple case might only take a day to gather enough information, whereas a more complicated case could take several weeks.

i. Core principles of investigating

There are a number of core principles that we will consider to ensure that we conduct investigations in a fair, consistent and reasonable manner.

ii. Inform the employee

We will always inform the employee who is the subject of an investigation that it will be taking place. This will include:

- providing the employee with a copy of the relevant internal procedure;
- informing the employee of the approximate timescales; and
- specifying the next steps, for example interviewing witnesses and collecting data and information.

In limited circumstances, it might be important that the employee is not informed that a situation is being investigated, for example where this might result in important evidence being destroyed.

iii. Reasonable time frame

We will conduct the necessary investigation within a reasonable time frame. This is important to ensure that witnesses' recollections remain fresh and accurate, and to obtain useful documentation that might otherwise be destroyed. For example, we may need to review CCTV footage quickly because tapes are usually kept for a fixed period of time, and emails or any other computer-based evidence might be permanently deleted in a short space of time.

iv. Internal procedures

At the outset of an investigation, the appointed investigator will always acquaint themselves with our process, for example the disciplinary or grievance procedure, and follow it. We will provide the employee with a copy of the procedure and make the employee aware that it will be followed.

If this principle is followed, all parties will be aligned as to what the next steps are, and it will help to foster consistency, clarity and transparency.

v. Establish the facts

During an investigation we will need to establish the facts. The appointed investigator will not be swayed by their own opinion or the opinions and views of any other person.

We will always dedicate sufficient time to the investigation to establish the facts.

vi. Confidentiality

The principle of confidentiality applies to the line manager, the employee who prompted the investigation and all witnesses.

All involved will not discuss the investigation with other employees or with third parties.

Human Resources will consider and if necessary seek legal assistance to be able to determine if it is necessary to divulge the name of the employee who prompted or is the subject of the investigation to witnesses. More often than not, this will be necessary to establish the facts. However, in some situations, as a responsible employer we may have to consider protecting the identity of the employee, for example where they have alleged that a fellow employee is bullying members of staff.

It is good practice for line managers to limit the number of people who are aware that an investigation is taking place. This helps to ensure that information gathered is accurate and that evidence is not destroyed.

vii. Clarify the issues

Before starting the investigation, we will be clear about the relevant issues.

Who should carry out the investigation?

The person carrying out the investigation should not be involved in the issue, for example a witness should not carry out the investigation. Neither should the person carrying out the investigation be the same person who will conduct any necessary disciplinary or grievance procedure following the investigation.

Suspension

In some circumstances, it may be necessary to suspend an employee for a short period pending the outcome of the investigation.

Factors to consider

Suspension pending the outcome of the investigation might be necessary:

- where relationships have broken down;
- in cases where serious misconduct has been alleged, and which, if proven, would result in summary dismissal, for example where the employee is suspected of theft or bribery;
- where there are grounds to believe that the employee might deliberately cause damage, to the employer's computer network for example, if they remained in the workplace;
- where the employee's continued presence at work might prejudice the investigation in some way, for example where there is a risk that they might intimidate witnesses;
- where the employee has acted in a violent manner or has threatened violence;
- where the employee has been accused of serious bullying or harassment; or
- where the matter under review is of a highly sensitive nature.

A decision to suspend an employee should be taken only after careful consideration of all the circumstances. We will always consider alternatives to suspension, for example temporarily relocating the employee or assigning new duties to them.

Paid suspension

Any suspension from work pending the result of an investigation will be with full pay and benefits.

The terms of suspension

If we determine that suspension is necessary, a manager or Head of Department or a Director will always seek to meet face to face with the employee to discuss the terms of the suspension and why it is considered necessary. This will be followed up in writing to the employee. We will always explain:

- why the employee is being suspended;
- when the suspension will start;
- how long the suspension is likely to last;
- that the suspension is on full pay and benefits;
- that the suspension is not a penalty or tantamount to disciplinary action;

- that the suspension does not mean that the employee has been judged guilty of any offence, or that the outcome of the investigation has already been determined;
- that the employee will have a full opportunity to put across their version of events, explain their conduct, or answer any allegations; and
- that you will keep the employee updated as to the progress of the investigation and will stay in touch.

We may deem it necessary to remove items such as the employee's access pass, computer password and diocesan laptop and mobile phone.

Interviewing the employee at the centre of the investigation

As part of the investigation, it will be necessary to interview the employee who is suspected of misconduct or raised the grievance. This allows us to establish core facts, and may also provide guidance about who else should be interviewed, and what other evidence should be gathered.

Right to be accompanied

Employees do not have the right to be accompanied at investigatory meetings. However, we do allow and encourage this practice.

Employees do have the right to be accompanied at formal disciplinary hearings. When we are conducting an investigation meeting with an employee who may be subject to future formal disciplinary proceedings, we will always be aware that this is not the time for deciding any outcome or actions.

Dealing with the complaint

Wherever possible, we will try to ensure that the employee complaining of harassment or bullying and the alleged harasser are not required to work together while the complaint is under investigation. This could involve giving the employee complaining of harassment or bullying the option of working from home, where possible, or remaining at home on special leave, if agreed. In the case of serious allegations, we reserve the right to suspend any employee who is under investigation for a serious breach of conduct through complaint, especially any which involve discrimination, harassment or bullying, for a temporary period while investigations are being carried out and any disciplinary proceedings are underway. Such suspension will be for as short a time as possible and will be on full pay. Suspension in these circumstances does not constitute disciplinary action.

Any employee accused will be informed of the complaint against them and afforded a full opportunity to challenge the allegations and put forward an explanation for their behaviour in a confidential interview, with a companion present if they wish. No employee will be presumed guilty following an allegation of harassment or bullying against them.

We consider all forms of discrimination, harassment and bullying as gross / serious misconduct, and any employee who is found to have discriminated against, harassed or bullied a colleague will be liable to disciplinary action up to and including summary dismissal.

If the complaint is upheld, and the person found to have bullied or harassed remains in our employment, every effort will be made to ensure that, if possible, the complainant does not have to continue to work alongside the harasser, if the complainant does not wish to do so.

We will discuss the options with the complainant. These may include the transfer of the harasser or, if the complainant wishes, the complainant may be able to transfer to another post.

If the complaint is not upheld, the human resources department will support the complainant, the alleged harasser and the complainant's manager(s) in deciding for both employees to continue or resume working and to help repair working relationships. We will consider the possibility of avoiding the complainant and the alleged harasser having to continue to work alongside each other, if either of them does not wish to do this.

Employees have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint that the employee knows to be untrue may lead also to disciplinary action being taken.

Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings. There are strict time limits for bringing claims of unlawful discrimination to an employment tribunal.

Disclosure and confidentiality

We will maintain records of investigations into alleged incidents of harassment or bullying, the outcome of the investigations and any corrective or disciplinary action taken. The institution treats personal data collected during this process in accordance with its data protection policy.

Law relating to this document

Leading statutory authority

Employment Rights Act 1996

Equality Act 2010

Data Protection Act 2018

General Data Protection Regulation (2016/679 EU)

The Equality Act 2010 defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;

- sex; and
- sexual orientation.

The Equality Act 2010 makes harassment unlawful across all the protected characteristics, with the exceptions of marriage and civil partnership, and pregnancy and maternity (which are covered by direct discrimination provisions in the Equality Act 2010). Harassment is defined as unwanted conduct related to a relevant protected characteristic that has the purpose or effect of:

- violating a person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment.

The Act sets out two specific definitions of sexual harassment, which are:

- conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- less favourable treatment related to sex or gender reassignment that occurs as a result of a rejection of or submission to sexual conduct.

In determining whether or not the unwanted action or conduct has the effect referred to, the factors that must be considered are:

- the perception of the complainant;
- any other circumstances of the case; and
- whether or not it is reasonable for the action or conduct to have had the alleged effect as described by the complainant.

If the complaint is in relation to discrimination or harassment also includes the following:

- **Harassment based on association.** It is unlawful to discriminate against or harass any individual for association with another individual who has a protected characteristic (other than marriage and civil partnership, and (according to guidance from the Government and Acas) pregnancy and maternity). For example, if an employer denies an employee a promotion because she is taking care of a disabled relative and the employer thinks that the employee will not have any time for new duties, this would amount to associative discrimination as disability is one of the specified protected characteristics. Similarly, if an employer harasses an employee because his brother is gay, this would be unlawful as associative harassment as sexual orientation is another of the protected characteristics.
- **Harassment based on a perception.** It is unlawful to discriminate against or harass any individual based on a perception that they have a particular protected characteristic (other than marriage and civil partnership, and pregnancy and maternity) when they do not, in fact, have the protected characteristic. For example, a male employee may look much older than his age. If the institution does not allow him to make presentations to clients because his line manager thinks that he is too old, the employee has been discriminated against because of a perception of the protected characteristic of age,

even though he may be relatively young. Similarly, if an employee is called names and made fun of because his colleagues believe that he is transgender, he may have a claim for perceptible harassment related to the protected characteristic of gender reassignment, even though he is not transgender.

There are no specific provisions in the Equality Act 2010 to cover third-party harassment. This does not mean that employers can be relaxed about complaints from employees of harassment by third parties. An employer can be liable for unlawful discrimination for failing to prevent harassment if its reason for not taking preventative action was because of a protected characteristic or because the individual had previously raised an issue of unlawful discrimination. In addition, employees who have been subjected to harassment by a third party may still bring a claim against their employer for constructive dismissal if the employee resigns and claims that the employer's failure to protect them amounts to a breach of contract.

Relevant case law

Bessong v Pennine Care NHS Foundation Trust [2020] IRLR 4 EAT The Employment Appeal Tribunal (EAT) held that the employer was not liable for harassment of its employee by a third party unless the employer's conduct or inaction was related to the relevant protected characteristic.

Heafield v Times Newspaper Ltd EAT/1305/12. The EAT upheld a tribunal decision that the context of a remark is important when assessing whether or not it constituted harassment.

Conteh v Parking Partners Ltd EAT/0288/10. The EAT held that the employment tribunal was correct to reject a claim of race discrimination under the Race Relations Act 1976 against an employer that failed to take action to prevent third-party harassment.

Horkulak v Cantor Fitzgerald International [2004] IRLR 942 CA. Several incidents took place in which the employee's manager used foul and abusive language towards him, threatened him with dismissal and called him abusive and insulting names. The employee succeeded in a claim for wrongful constructive dismissal.

Macdonald v Advocate General for Scotland; Pearce v Governing Body of Mayfield School [2003] IRLR 512 HL. The House of Lords held that an employer will be liable for unlawful discrimination for failing to prevent harassment only if its reason for not taking preventative action was on a prohibited ground or because the individual had previously raised an issue of unlawful discrimination.

Strathclyde Regional Council v Porcelli [1986] IRLR 134 CS. The EAT held that a single incident, if sufficiently serious, could amount to sexual harassment for which the employer could be held liable.

Western Excavating (ECC) Ltd v Sharp [1978] IRLR 27 CA. The Court of Appeal held that: "If the employer is guilty of conduct which is a significant breach going to the root of the

contract of employment, or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employer's conduct. He is constructively dismissed."

Policy Review

The Director or Head of Human Resources will review this policy at least once every two (2) to make any updates needed.

Appendix I: Complaint form (Public) - template

Complaint form (Public)

This form is intended for use by a member of the public who wants to make a formal complaint about the behaviour, action or conduct of an employee or volunteer, or a third party, or any other issue perceived to have been caused by the Roman Catholic Diocese of Westminster - registered *charity No.233699*

This form should be delivered to the Office of the Financial Secretary in an envelope marked "confidential" or sent as an email marked as "confidential" and with "confidential" in the subject line.

Physical Address:

Office of the Financial Secretary
Vaughan House
46 Francis Street London
SW1P 1QN

Email Address:

eacoo@rcdow.org.uk

We treat personal data collected during the complaint procedure in accordance with our data protection policy. Information about how your data is used and the basis for processing your data is provided within our organisational GDPR statement.

Formal complaint

Complainant's name:

Complainant's telephone number:

Complainant's postal address:

Complainant's email address:	
Date	
Summary of complaint:	
<p>Please set out the details of your complaint (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required.</p>	
Individuals (if known) involved in the alleged incident/complaint:	
<p>Please provide the names and contact details of any people involved in your complaint, including witnesses.</p>	
Outcome requested:	
<p>Please set out how you would like to see your complaint dealt with, and why and how you believe that this will resolve the issue.</p>	

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in civil action being taken against me by the organisation or an individual.

Form completed by:**Signature of person completing the form:****For completion by the Office of the Financial Secretary:**

Date form received by Office of the Financial Secretary:

Name of recipient and job role:

Signature:

Appendix II: Employee grievance form - template

Employee grievance form

This form is intended for use by any employee who wants to make a formal complaint about the behaviour, action or conduct of a colleague, their manager or a third party, or any other workplace issue.

Employees should bear in mind before using this form that they can request that a matter be dealt with in an informal manner by a manager. Where the employee requests that the complaint be dealt with informally, the appropriate person (as determined by the HR department) will discuss the matter with the employee, with a view to resolving the matter without recourse to a formal procedure.

Where the employee requests that the complaint be dealt with formally, this form should be completed and our organisation's grievance procedure will be invoked.

In certain circumstances, employees can request that their complaint be kept anonymous. Where possible, we will respect an employee's request for anonymity, but cannot guarantee that it will be able to do so.

This form should be delivered to the Head of Human Resources in an envelope marked "confidential" or sent as an email marked as "confidential" and with "confidential" in the subject line.

We treat personal data collected during the grievance procedure in accordance with our data protection policy. Information about how your data is used and the basis for processing your data is provided in our employee privacy notice.

Formal grievance

Employee's name:

Employee's job title:

Employee's department & location:

Date:	
Does your grievance relate to your line manager?	Yes/No
Summary of complaint:	
<p>Please set out the details of your complaint (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required.</p>	
Individuals involved in the alleged incident/complaint:	
<p>Please provide the names and contact details of any people involved in your complaint, including witnesses.</p>	
Outcome requested:	
<p>Please set out how you would like to see your complaint dealt with, and why and how you believe that this will resolve the issue.</p>	

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the organisation. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct.)

Form completed by:**Signature:****For completion by Human Resources:**

Date form received by Human Resources:

Name of recipient and job role:

Signature: